



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNR

Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant has made application to set aside a Notice to End Tenancy for Unpaid Rent.

Both parties were represented at the hearing.

At the outset of the hearing the Tenant requested an adjournment for the purposes of conducting this hearing in person. She stated that she is hearing impaired; that she could not hear what the other persons on the line were saying; and that she needed time to obtain an advocate to assist her with her hearing impairment.

The Tenant was advised that I was not inclined to delay these proceedings, given that the matter related to unpaid rent and an attempt to end the tenancy. The Tenant was advised that I intended to proceed with the preliminary matters of the hearing and that I would repeat anything that was said by the other party if she was unable to hear them.

I informed the Tenant that the Agent for the Landlord with the initials "P.H." was on the line and she stated that this individual is married to her cousin. I informed the Tenant that the Agent for the Landlord with the initials "S.H." was on the line and she stated that this individual is her cousin. I informed the Tenant that the Agent for the Landlord with the initials "H.T." was on the line and she stated that she does not know this individual. It was very apparent to me during this interaction that the Tenant could clearly understand what I was saying to her, and I determined that it would be appropriate to attempt to proceed with the hearing in this manner.

The Tenant repeatedly interrupted the aforementioned conversation by stating that she had the right to request an adjournment. She was repeatedly advised that I understood her request and that I would not grant that request until such time as I was satisfied that her hearing impairment significantly compromised her ability to participate in the hearing.

This hearing commenced at 1:01 p.m. The Tenant exited from the teleconference at 1:11 p.m., before the Landlord had the opportunity to comment on the application for an adjournment.

The Agent for the Landlord with the initials "H.T." objected to the application for an adjournment on the basis that the Tenant had ample time to find an advocate and that the Tenant has not paid all the rent due for September or any of the rent due for October.

I dismissed the Tenant's application for an adjournment for the following reasons:

- The Tenant had no difficulty hearing me and I am satisfied that I could have repeated any of the testimony provided by the other parties if she was unable to hear the testimony
- The Tenant filed this Application for Dispute Resolution on September 04, 2012 and she had a full month to find a person who could assist her with these proceedings
- The Landlord is attempting to end the tenancy for unpaid rent and an adjournment would unduly prejudice the Landlord
- There is nothing in the written submission submitted by the Tenant that would cause me to conclude that she has the right to withhold rent.

This hearing proceeded in the absence of the Tenant.

Issue(s) to be Decided

The issue to be decided is whether the Notice to End Tenancy for Unpaid Rent, served pursuant to section 46 of the *Residential Tenancy Act (Act)*, should be set aside.

Background and Evidence

The Agent for the Landlord with the initials "H.T." stated that this tenancy began on March 01, 2012; that the Tenant was required to pay monthly rent of \$700.00 by the first day of each month; and that the Tenant did not pay rent when it was due on September 01, 2012.

The Agent for the Landlord with the initials "S.H." stated that she and her husband posted a Ten Day Notice to End Tenancy for Unpaid Rent on the door of the rental unit on September 02, 2012, which declared that the Tenant must vacate the rental unit by September 12, 2012. The Agent for the Landlord with the initials "S.H." stated that the Tenant paid \$400.00 in rent on September 04, 2012.

The Agent for the Landlord with the initials "H.T." stated that no rent has been paid since September 04, 2012.

Analysis

On the basis of the evidence presented by the Landlord and in the absence of evidence to the contrary, I find that the Tenant was obligated to pay rent of \$700.00 on

September 01, 2012 and that she paid \$400.00 of the rent that was due on September 04, 2012.

Section 46 of the *Act* authorizes a landlord to end a tenancy if rent is not paid when it is due. As the Tenant did not pay all the rent by September 01, 2012, I find that the Landlord has the right to end this tenancy.

On the basis of the evidence presented by the Landlord and in the absence of evidence to the contrary, I find that a Ten Day Notice to End Tenancy was posted on the door of the rental unit on September 02, 2012. As the Tenant filed an Application for Dispute Resolution seeking to set aside this notice on September 04, 2012, I find that the Tenant had received the Notice by September 04, 2012.

Section 46(1) of the *Act* stipulates that a 10 Day Notice to End Tenancy is effective ten days after the date that the Tenant receives the Notice. As the Tenant had received the Notice by September 04, 2012 and I have no evidence to conclude that she received it prior to that date, I find that the earliest effective date of the Notice was September 14, 2012.

Section 53 of the *Act* stipulates that if the effective date stated in a Notice is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. Therefore, I find that the effective date of this Notice to End Tenancy was September 14, 2012.

Conclusion

As the Landlord had the right to end this tenancy, pursuant to section 46 of the *Act*, I dismiss the Tenant's application to set aside the Notice to End Tenancy and I grant the Landlord an Order of Possession, as requested at the hearing, which is effective two days after it is served upon the Tenant.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 03, 2012.

Residential Tenancy Branch